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END

December 19, 2005

Alberto Gonzales, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Re: *Northern California River Watch v. Sonoma County Water Agency*  
United States District Court Case No: C05 03749 SC

Dear Attorney Gonzales:

In accordance with requirements of 33 U.S.C. §1365(c)(3), we are enclosing for your files a copy of the First Amended Complaint in the above-entitled action filed by this office with the U.S. District Court, Northern District of California on September 19, 2005.

Sincerely,

Jack Silver

JS:lmh  
Enclosure

90-1-24-177-02133

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8 Attorneys for Plaintiff  
9 Northern California River Watch

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 NORTHERN CALIFORNIA RIVER  
13 WATCH, a non-profit Corporation

14 Plaintiff,

15 v.

16 SONOMA COUNTY WATER AGENCY,  
17 DOES 1-10, Inclusive,

18 Defendants.  
19 /

C 05 03749 SC

**FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE RELIEF, CIVIL  
PENALTIES, RESTITUTION AND  
REMEDATION**

(Environmental - Clean Water Act  
33 U.S.C. §1251 et seq.)

ENVIRONMENT & NATURAL  
RESOURCES DIVISION  
APPELLATE SECTION

2005 DEC 30 PM 4:11

20 NOW COMES Plaintiff, NORTHERN CALIFORNIA RIVER WATCH (hereafter,  
21 "PLAINTIFF") by and through its attorneys, and for its First Amended Complaint against  
22 Defendants, SONOMA COUNTY WATER AGENCY and DOES 1-10, Inclusive, (hereafter,  
23 "DEFENDANT"), states as follows:

24 **I. NATURE OF THE CASE**

25 1. This is a citizens' suit for relief brought by PLAINTIFF under the Federal Water  
26 Pollution Control Act, also known as the Clean Water Act (hereafter, "CWA"), 33 U.S.C.  
27 §1251 et seq., specifically CWA § 505, 33 U.S.C. §1365, 33 U.S.C. § 1311, 33 U.S.C. § 1342,  
28 to stop DEFENDANT from repeated and ongoing violations of the CWA. These violations are

C05 3749 SC

First Amended Complaint for Injunctive Relief

90-1-24-177-02133

1 detailed in the Supplemental Notice of Violations and Intent to File Suit made part of the  
2 pleadings of this case and attached hereto as EXHIBIT A (hereafter, "SUPPLEMENTAL  
3 NOTICE").

4 2. DEFENDANT is routinely violating the terms of its National Pollution Discharge  
5 Elimination System ("NPDES") Permits (hereafter, "PERMITS"), adopted by the Regional  
6 Water Quality Control Board, North Coast Bay Region (hereafter, "RWQCB"), regulating the  
7 Sonoma Valley Wastewater Collection and Treatment Facility. DEFENDANT is also routinely  
8 violating the Water Quality Control Plan for the North Coast Region (hereafter, "Basin Plan"),  
9 toxics standards promulgated by the State Water Resources Control Board (hereafter,  
10 "SWRCB"), and Environmental Protection Agency's (hereafter, "EPA") regulations codified  
11 in the Code of Federal Regulations in the course of DEFENDANT's operation of the above  
12 referenced facility.

13 3. PLAINTIFF seeks declaratory relief, injunctive relief to prohibit future violations, the  
14 imposition of civil penalties, and other relief for DEFENDANT's violations of the terms of its  
15 PERMITS.

16 4. Under 33 U.S.C. § 1251(e), Congress declared its goals and policies with regard to  
17 public participation in the enforcement of the CWA. 33 U.S.C. §1251(e) provides, in pertinent  
18 part:

19 *Public participation in the development, revision, and enforcement of any*  
20 *regulation, standard, effluent limitation, plan or program established by*  
21 *the Administrator or any State under this chapter shall be provided for,*  
*encouraged, and assisted by the Administrator and the States.*

22 5. DEFENDANT illegally discharges to waters which are habitat for threatened or  
23 endangered species as that term is defined by the California EPA and the United States EPA.

## 24 II. PARTIES

25 6. PLAINTIFF, NORTHERN CALIFORNIA RIVER WATCH, is a 501(c)(3) non-profit  
26 public benefit corporation duly organized under the laws of the State of California, with  
27 headquarters and main office located at 6741 Sebastopol Avenue, Suite 140, Sebastopol,  
28 California. PLAINTIFF is dedicated to protect, enhance and help restore the surface and

1 subsurface waters of Northern California. PLAINTIFF's members live in Northern California  
2 including Sonoma County where the above-referenced facilities under DEFENDANT's  
3 operation and/or control are located.

4 7. PLAINTIFF's members live nearby to waters affected by DEFENDANT's illegal  
5 discharges. PLAINTIFF's members have interests which are or may be adversely affected by  
6 DEFENDANT's violations. Said members use the effected waters and effected watershed  
7 areas for domestic water, recreation, sports, fishing, swimming, hiking, photography, nature  
8 walks, religious, spiritual and shamanic practices, and the like. Furthermore, the relief sought  
9 will redress the injury in fact, likelihood of future injury and interference with the interests of  
10 said members.

11 8. DEFENDANT, SONOMA COUNTY WATER AGENCY is a governmental entity. Its  
12 administrative offices are located at 404 Aviation Boulevard, Santa Rosa, California 95403.

13 9. DEFENDANTS DOES 1 - 10, Inclusive, respectively, are persons, partnerships,  
14 corporations and entities, who are, or were, responsible for, or in some way contributed to, the  
15 violations which are the subject of this Complaint or are, or were, responsible for the  
16 maintenance, supervision, management, operations, or insurance coverage of DEFENDANT's  
17 facilities and operations. The names, identities, capacities, and functions of DEFENDANTS  
18 DOES 1 - 10, Inclusive are presently unknown to PLAINTIFF. PLAINTIFF shall seek leave  
19 of court to amend this Complaint to insert the true names of said DOES Defendants when the  
20 same have been ascertained.

### 21 III. JURISDICTIONAL ALLEGATIONS

22 10. Subject matter jurisdiction is conferred upon this Court by CWA § 505(a)(1), 33 U.S.C.  
23 § 1365(a)(1), which states in part that, "any citizen may commence a civil action on his own  
24 behalf against any person . . . who is alleged to be in violation of (A) an effluent standard or  
25 limitation . . . or (B) an order issued by the Administrator or a State with respect to such a  
26 standard or limitation." For purposes of CWA § 505, "the term 'citizen' means a person or  
27 persons having an interest which is or may be adversely affected."

28 //

1 11. Members and supporters of PLAINTIFF reside in the vicinity of, derive livelihoods from,  
2 own property near, and/or recreate on, in or near and/or otherwise use, enjoy and benefit from  
3 the waterways and associated natural resources into which DEFENDANT discharges  
4 wastewater, or by which DEFENDANT's operations adversely affect members' interests, in  
5 violation of DEFENDANT's PERMITS and CWA § 301(a), 33 U.S.C. § 1311(a). The health,  
6 economic, recreational, aesthetic and environmental interests of PLAINTIFF and its members  
7 may be, have been, are being, and will continue to be adversely affected by DEFENDANT's  
8 unlawful violations. PLAINTIFF contends there exists an injury in fact to its members,  
9 causation of that injury by the DEFENDANT's complained of conduct, and a likelihood that  
10 the requested relief will redress that injury.

11 12. Pursuant to CWA § 505(b)(1)(A), 33 U.S.C. § 1365(b)(1)(A), PLAINTIFF gave notice  
12 of the violations alleged in this First Amended Complaint more than sixty (60) days prior to  
13 commencement of this lawsuit, to: (a) the DEFENDANT, (b) the United States Environmental  
14 Protection Agency, Federal and Regional, and (c) the State of California Water Resources  
15 Control Board.

16 13. Pursuant to CWA § 505(c)(3), 33 USC § 1365(c)(3), a copy of this First Amended  
17 Complaint has been served on the United States Attorney General and the Administrator of the  
18 Federal EPA.

19 14. Pursuant to CWA § 505(c)(1), 33 U.S.C. § 1365(c)(1), venue lies in this District as the  
20 treatment facilities under DEFENDANT's operation and/or control, and the sites where illegal  
21 discharges occurred, which are the source of the violations complained of in this action, are  
22 located within this District.

#### 23 IV. GENERAL ALLEGATIONS

24 15. PLAINTIFF incorporates by reference all the foregoing including the  
25 SUPPLEMENTAL NOTICE, attached to this complaint as EXHIBIT A.

26 16. DEFENDANT owns and/or operates a wastewater treatment plant, reuse and disposal  
27 facility (hereafter, "FACILITY") located at 22675 Eighth Street East in the City of Sonoma,  
28 Sonoma County. The Sonoma Facility provides secondary treatment for combined domestic,

1 commercial and industrial wastewater collected in the City of Sonoma and surrounding  
2 unincorporated areas identified in the attached SUPPLEMENTAL NOTICE. The FACILITY  
3 discharges both directly and indirectly into the waterways referenced below.

4 17. All illegal discharges and activities complained of in this First Amended Complaint occur  
5 in the waterways named in the attached SUPPLEMENTAL NOTICE, all of which are waters  
6 of the United States.

7 18. The RWQCB has determined that the watershed areas and affected waterways are  
8 beneficially used for drinking water, water contact recreation, non-contact water recreation,  
9 fresh water habitat, wildlife habitat, preservation of rare and endangered species, fish migration,  
10 fish spawning, industrial service supply, navigation, and sport fishing.

11 19. Pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), the EPA and the State of California  
12 have formally concluded that discharges by DEFENDANT of the type complained of in the  
13 SUPPLEMENTAL NOTICE are prohibited by law. Beneficial uses of most portions of the  
14 specified waterways are being affected in a prohibited manner by the illegal discharges and  
15 activities of DEFENDANT. Additionally, pursuant to CWA § 304, 33 U.S.C. § 1311, the EPA  
16 and the State of California have identified the FACILITY named in the attached  
17 SUPPLEMENTAL NOTICE, owned and/or operated by DEFENDANT, as a point source, the  
18 discharges from which contribute to violations of applicable water quality standards.

#### 19 **V. STATUTORY AND REGULATORY BACKGROUND**

20 20. CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a "point  
21 source" into the navigable waters of the United States, unless such discharge is in compliance  
22 with applicable effluent limitations as set by the EPA and the applicable State agency. These  
23 limits are to be incorporated into an NPDES permit for that point source specifically. Additional  
24 sets of regulations are set forth in the Basin Plan, California Toxics Plan, the Code of Federal  
25 Regulation and other regulations promulgated by the EPA and the SWRCB. CWA § 301(a)  
26 prohibits discharges of pollutants or activities not authorized by, or in violation of an effluent  
27 standard or limitation or an order issued by the EPA or a State with respect to such a standard  
28 or limitation including an NPDES permit issued pursuant to CWA § 402, 33 U.S.C. § 1342.

1 27. The types of violations are described with particularity by using the designations as set  
2 forth in DEFENDANT's PERMITS and detailed in the SUPPLEMENTAL NOTICE using the  
3 same designations as in the PERMITS.

4 28. The location of the discharges are the discharges points as described in the  
5 SUPPLEMENTAL NOTICE and incorporated herein by reference.

6 **VII. CLAIM FOR RELIEF**

7 **Violation of CWA 33 U.S.C. § 1251 et seq., 33 U.S.C. § 1342, 33 U.S.C. § 1311**

8 **Discharger Must Comply with NPDES Permit**

9 29. PLAINTIFF realleges and incorporates by reference the allegations of Paragraphs 1  
10 through 28 as though fully set forth herein including all allegations in the attached  
11 SUPPLEMENTAL NOTICE and incorporated herein by reference.

12 30. DEFENDANT has violated and continues to violate the CWA as evidenced by the  
13 violations of the terms of its PERMITS as well as applicable State and Federal standards. By  
14 law and by the terms of DEFENDANT's NPDES PERMITS, which DEFENDANT has not  
15 objected to, violations of DEFENDANT's NPDES permits are violations of the CWA. (See 40  
16 C.F.R. § 122.41(a)).

17 31. Plaintiff is informed and believes and on such information and belief alleges  
18 DEFENDANT's violations are ongoing, and will continue after the filing of this First Amended  
19 Complaint. PLAINTIFF alleges all violations which may have occurred or will occur prior to  
20 trial, but for which data may not have been available or submitted or apparent from the face of  
21 the reports or data submitted by DEFENDANT to the RWQCB or to PLAINTIFF prior to the  
22 filing of this First Amended Complaint. PLAINTIFF will file additional amended complaints  
23 if necessary to address DEFENDANT's State and Federal violations of its PERMITS which  
24 may occur after the filing of this First Amended Complaint. Each of DEFENDANT's violations  
25 in excess of its PERMITS limits or State and Federal standards has been and is a separate  
26 violation of the CWA. DEFENDANT has violated and continues to violate an "effluent  
27 //

1 standard or limitation" under CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1) or an order issued by  
2 the State with respect to such a standard or limitation.

3 32. PLAINTIFF avers and believes and on such belief alleges that without the imposition  
4 of appropriate civil penalties and the issuance of appropriate equitable relief, DEFENDANT  
5 will continue to violate its PERMITS limits as well as State and Federal standards with respect  
6 to the enumerated discharges and releases. PLAINTIFF avers and believes and on such belief  
7 alleges that the relief requested in this First Amended Complaint will redress the injury to  
8 PLAINTIFF and its members, prevent future injury, and protect the interests of its members  
9 which are or may be adversely affected by DEFENDANT's violations of its PERMITS, State  
10 and Federal standards.

11 **VIII. RELIEF REQUESTED**

12 WHEREFORE, PLAINTIFF prays that the Court grant the following relief:

13 33. Declare DEFENDANT to have violated and to be in violation of the CWA;

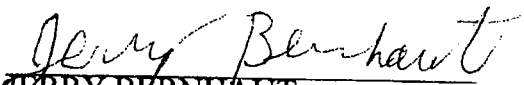
14 34. Issue an injunction ordering DEFENDANT to immediately operate its FACILITY in  
15 compliance with the CWA and applicable effluent and receiving water limitations in its  
16 PERMITS, as well as State and Federal standards;

17 35. Order DEFENDANT to pay civil penalties per violation per day for its violations of the  
18 CWA;

19 36. Order DEFENDANT to pay PLAINTIFF's reasonable attorneys' fees and costs  
20 (including expert witness fees), as provided by 33 U.S.C. § 1365(d) and applicable California  
21 law; and,

22 37. Grant such other and further relief as may be just and proper.  
23  
24

25 DATED: December 16, 2005

  
26 JERRY BERNHAUT  
27 Attorney for Plaintiff  
28 NORTHERN CALIFORNIA RIVER WATCH



# **EXHIBIT A**

# Law Office of Jack Silver

P.O. Box 5469  
Phone 707-528-8175  
warrioreco@yahoo.com

Santa Rosa, California 95402  
Fax 707-528-8675



September 30, 2005

## **Certified Mail - Return Receipt Requested**

Randy D. Poole, General Manager  
Sonoma County Water Agency  
2150 West College Avenue  
Santa Rosa, CA 95407

Steven A. Woodside, County Counsel  
County of Sonoma  
575 Administration Dr. Room 105-A  
Santa Rosa, CA 95403

### ***RE: Supplemental Notice of Violations and Intent to File Suit Under the Clean Water Act***

Dear Mr. Poole and Mr. Woodside:

Section 505(b) of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA") requires that sixty (60) days prior to the initiation of a civil action under 33 U.S.C. § 1365(a), §505(a) of the Clean Water Act, a citizen must give notice of his/her intent to sue to the alleged violator, the U.S. Environmental Protection Agency, the State in which the violations occur and the registered agent of the alleged violator.

Northern California River Watch ("River Watch") hereby places the Sonoma County Water Agency ("SCWA") and the County of Sonoma on notice that following the expiration of sixty (60) days from the date of this NOTICE, River Watch intends to bring suit in Federal District Court against the SCWA for its continuing violations of an effluent standard or limitation, "permit condition or requirement and/or an order issued by the Administrator or a State with respect to such standard or limitation" under § 505(a)(1) of the Clean Water Act, 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Basin Plan, as exemplified by of violations of effluent limits in its NPDES permits at the various facilities listed below.

## I. INTRODUCTION

The Clean Water Act regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a polluter, who has been issued a permit pursuant to the NPDES, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33 U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a polluter in violation of 33 U.S.C. § 1311(a). Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a), 33 U.S.C. § 1365(f)(1).

The Clean Water Act provides that, in any given state or region, authority to administer the NPDES permitting system can be delegated by the federal Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. 33 U.S.C. §1342(b). In California, the EPA has granted authorization to a state regulatory apparatus, comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards, to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this case is the Regional Water Quality Control Board ("RWQCB").

The main office of the SCWA is located at 404 Aviation Boulevard, Santa Rosa, California. The Sonoma County Board of Supervisors sits as the Board of Directors of the SCWA and has final responsibility for SCWA policies and operations, and is therefore also being identified in this NOTICE as an operator and or owner as those terms are used in the Clean Water Act. The SCWA owns and/or operates the Sonoma Valley Wastewater Treatment, Disposal and Reuse Facility ("Sonoma Facility"). The violations enumerated below are based upon review of RWQCB files and SCWA files.

The Clean Water Act requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement River Watch has identified the NPDES Permit of the Sonoma Facility with specificity. It has also used the actual language of the Permit to describe the various violations.

2. *The activity alleged to constitute a violation.*

To comply with this requirement River Watch has set forth narratives below, describing with particularity the activities leading to violations.

3. *The person or persons responsible for the alleged violation.*

The person or persons responsible for the alleged violations are the SCWA and those of its employees responsible for compliance with the Permit regulating the Sonoma Facility.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in the Sonoma Facility's Permits and also in records either created or maintained by or for the SCWA which relate to the Sonoma Facility and related activities.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined both RWQCB and SCWA records for the period from September 28, 2000 through September 28, 2005. Therefore, the range of dates covered by this NOTICE is from September 28, 2000 through September 28, 2005. River Watch will from time to time update this NOTICE to include all violations which occur after the range of dates currently covered by this NOTICE. Some of the violations are continuous and therefore each day is a violation.

## II. FACILITY

The Sonoma Valley County Sanitation District ("SVCSD") is under the operating authority of the SCWA. This municipal wastewater treatment plant is located at 22675 Eighth Street East in the City of Sonoma, Sonoma County. The Sonoma Facility provides secondary treatment for domestic and light commercial wastewater collected from the City of Sonoma and nearby unincorporated areas of Glen Ellen, Boyes Hot Springs, and Agua Caliente. The Sonoma Facility has an average dry weather flow design capacity of 3.0 million gallons per day (mgd) and often receives more than its maximum capacity of 8.0 mgd during the wet weather flow period. The SVCSD continuously discharges from the Sonoma Facility in wet seasons and intermittently discharges in dry season to waters of the State and the United States.

The SVCSD has a history of inadequate pollution prevention/source reduction and pretreatment programs, as exemplified by its failure to comply with the conditions and limitations of its NPDES Permit No. CA0037800. (1998 Permit -WDR Order No. 98-111, and 2002 Permit WDR Order No. R2-2002-0046). The Permits were issued by the RWQCB pursuant to § 402 of the Clean Water Act, 33 U.S.C. § 1342, at the Sonoma Facility. The latter Permit, WDR Order R2-2002-0046, contains interim performance based limits on certain toxic pollutants, based on the

management units. Pursuant to § 301(a) of the Clean water Act, 33 U.S.C. § 1311(a), the EPA and the State of California have formally concluded that violations by the SVCSD of its Permits are prohibited by law. Beneficial uses of Sonoma Creek and its tributaries in the vicinity of the Sonoma Facility are being effected in a prohibited manner by these violations. Pursuant to CWA § 304, 33 U.S.C. § 1311, the EPA and the State have identified the Sonoma Facility as a point source, the discharges from which contribute to violations of applicable water quality standards.

### **III. VIOLATIONS**

From September 28, 2000 through September 28, 2005, the SVCSD has violated the requirements of the Sonoma Facility's NPDES Permits, the Basin Plan and the Code of Federal Regulations as those requirements are referenced in the Sonoma Facility's permit for discharge limitations, effluent limitations, receiving water limitations. Said violations are evidenced and reported in its SMRs, DMRs, its own testing data compiled in compliance with its Permits or other orders of the RWQCB, and other documentation filed with the RWQCB or in its possession, and as evidenced by unpermitted discharges due to failures in the collection system. Furthermore these violations are continuing. The violations, established in SMRs, raw data and records of the RWQCB, include but are not limited to the following categories in the Permits:

#### **Discharge Prohibitions**

<u>Violations</u>	<u>Description</u>
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<b>1825</b>	Collection system overflows, including discharges caused by surface overflows directly from overflowing manholes as well as underground exfiltration reaching waters of the State and the U.S.. Surface overflows are evidenced in the SCWA's East County Stoppage Reports, such as those submitted for December 2003, February 2004, and March 2004. Underground discharges are alleged to have been continuous throughout the five year period from September 28, 2000 to September 28, 2005. (Order No. 98-11 A.2, Order No. R2-00- 0046 A.3)
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A.2: The bypass or overflow of untreated or partially treated wastewater to waters of the State, either at the treatment plant or from the collection system or pump stations tributary to the treatment plant, is prohibited except as allowed by Standard Provision A.12

A.3: The bypass or overflow of untreated or partially treated wastewater to waters of the State, either at the treatment plant or from the collection system or pump stations tributary to the treatment plant, is prohibited except as provided for bypasses under the conditions stated in 40 CFR 122.41(m)(4) in Standard Provision A.13.

**Effluent Limitations****Violations      Description**

<b>72</b>	Limit on chlorine residual (Order No. 98-111 B.1(f) and Order No. R2-002-0046 B.1(e) )
<b>65</b>	Limit on zinc. (WDR No. 98-111 B.7(a) and Order No. R2-002-0046 B.7a )
<b>80</b>	Limit on copper. (WDR No. 98-111 B.7a)
<b>115</b>	Limit on pH. (Order No. 98-111 B.2 and Order No. R2- 002-0046 B.2 )
<b>75</b>	Limit on total coliform bacteria. (Order No.98-111 B.3 and Order No. R2-002-0046 B.4)

98-111 B.1: The term “effluent” in the following limitations means the fully treated wastewater effluent from the discharger’s wastewater treatment facility, as discharged to the Schell Slough. The effluent discharged to the Schell Slough during the wet weather period shall not exceed the following limits: ( See Order 98-111, pp 21,22 for numerical limits)

98-111B.3: Coliform Bacteria: The treated wastewater, at some point in the treatment process prior to discharge, shall meet the following limits of bacteriological quality: ( See Order 98-111 p22 for numerical limits)

98-111 B.7:a Toxic Substances Effluent Limitations: The discharge of effluent containing constituents in excess of the following limitations is prohibited: (See Order 98-111 p23 for numerical limits)

R2-002-0046 B.1:  
The effluent shall not exceed the following limits listed in Table 3.  
( See Order R2-002-0046 p31 for numerical limits)

R2-002-0046 B.2:  
Effluent Limitation for pH: (See Order R2-002-0046 p31 for numerical limits)

R2-002-0046 B.4:  
Total Coliform Bacteria: The treated wastewater, at some point in the treatment process prior to discharge, shall meet the following limits of bacteriological quality: ( See Order R2-002-0046 p31 for numerical limits)

**Reclamation Project Limitations****Violations      Description**

<b>30</b>	Irrigation runoff, exceeding vegetative capacity. (Order No. 98-111 D.1, D.2, Order No. CA0037800 D.1, D.2, D.3)
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Order No. 98-111 D.1:

The beneficial uses of Hudeman Slough shall not be degraded as a result of the wetlands enhancement project.

Order No. 98-111 D.2:

The salt marsh habitat located in the area designated as Management Unit 2 in the report titled Hudeman Slough Wetland Enhancement Plan shall not be degraded as a result of the wetlands enhancement project.

Order No. CA0037800 D.1:

The beneficial uses of Hudeman Slough shall not be degraded as a result of the wetlands enhancement project.

Order No. CA0037800 D.2:

The salt marsh habitat located in the area designated as Management Unit 2 in the report titled Hudeman Slough Wetland Enhancement Plan shall not be degraded as a result of the wetlands enhancement project.

#### **Monitoring Requirements**

<u>Violations</u>	<u>Description</u>
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110	Failure to report or adequately describe violations. (Order No. 98-111 F.19, Order CA0037800 F.16)
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Order No. 98-111 F.19:

The Discharger shall comply with the Self-Monitoring Program for this Order, as adopted by the Board and as may be amended by the Executive Officer.

Order CA0037800 F.16:

The Discharger shall comply with the SMP for this Order as adopted by the Board. The SMPs may be amended by the Executive officer pursuant to US EPA regulation 40 CFR 122.62, 122.63, and 124.5.

Violations by the SCWA of the Sonoma Facility's NPDES Permit have also been documented in Cease and Desist Order No. R2-2002-0044 and Administrative Civil liability Order No. 01-020A.

#### **IV. PENALTIES**

Pursuant to § 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), each of the above described violations of the Clean Water Act subjects the violator to a penalty of up to \$27,500.00 per day per violation for violations occurring within five (5) years prior to the initiation of a citizen enforcement action. In addition to civil penalties, River Watch will seek injunctive relief preventing

River Watch does not do intend to delay the filing of a lawsuit if discussions are continuing when that period ends.

Very truly yours,

Jerry Bernhaut

cc:

Stephen L. Johnson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 3213A  
Washington, D.C. 20460



Wayne Nastri, Regional Administrator  
U.S. Environmental Protection Agency Region 9  
75 Hawthorne St.  
San Francisco, CA 94105

Celeste Cantù, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, California 95812-0100

Peter W. McGaw, Esq.  
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2033 No. Main St. Suite 800  
Post Office Box 8035  
Walnut Creek, CA 94596-3728



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1 I declare under penalty of perjury, under the laws of the State of California, that the  
2 foregoing is true and correct, and that this declaration was executed on September 30, 2005 at  
3 Santa Rosa, California.

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